



**U.S. Citizenship
and Immigration
Services**

(b)(6)



DATE: **APR 28 2015**

OFFICE: TEXAS SERVICE CENTER

FILE: 

IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,


Ron Rosenberg

Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn. We will sustain the appeal and approve the petition.

The petitioner seeks to classify the beneficiary as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2). The director determined that the petitioner had not established that the beneficiary possessed an advanced degree as required in 8 U.S.C. § 1153(b)(2) and by the approved labor certification.¹ Specifically, the director concluded that the petitioner did not establish that the beneficiary possessed at least five years of progressive experience in the specialty from the date that the beneficiary's foreign equivalent baccalaureate degree was conferred.

To be eligible for approval, a beneficiary must have all the education, training, and experience specified on the labor certification as of the petition's priority date. *See Matter of Wing's Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977). The priority date of the petition is March 26, 2013, which is the date the labor certification was accepted for processing by the DOL. *See* 8 C.F.R. § 204.5(d). The Immigrant Petition for Alien Worker (Form I-140) was filed on August 14, 2007.

On appeal and upon review of the record, we find that the beneficiary has earned an advanced degree and meets the terms of the certified labor certification. Specifically, the beneficiary possesses the foreign equivalent of a U.S. bachelor's degree and has the required five years of post-baccalaureate progressive work experience in the position specified prior to the February 26, 2013 priority date.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

ORDER: The appeal is sustained. The petition is approved.

¹ An "advanced degree" is defined in 8 C.F.R. § 204.5(k)(2) as:

[A]ny United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.